IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 23385 of 2004

Between:

Jacob Xavier S/o.Joseph Xavier
H.No.10-1-821, A.C.Gurards,
Hyderabad.

..... PETITIONER

AND

1 Muncipal Corporation of Hyderabad rep by its Commissioner
Tank Bund Road, Hyderabad.
2 The Joint Collector
Hyderabad Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ in the nature of Writ of Mandamus or any other appropriate writ or writs, order or Direction, declaring the action of the first respondent in not accepting the application of the petitioner for grant of building permission in respect of premises No.10-1-820 (part) and 10-1-821 admeasuring 450 Sq yds situated at AC Guards, Hyderabad, as illegal, arbitrary and contrary to the provisions of H.M.C. Act and to consequently direct the respondents to forthwith receive the application of the petitioner and consider the same for grant of building permission in accordance with sections 428 and 429 of HMC Act and the building bye laws without insisting for submission of No Objection Certificate from the 2nd Respondent; Award costs and pass such other or further orders.

Counsel for the Petitioner : MR. K.RAGHUVEER REDDY

Counsel for the Respondent No.1: GP FOR REVENUE

Counsel for the Respondent No.2: SMT.G.JYOTHI KIRAN.

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.23385 OF 2004

ORAL ORDER :

The petitioner who claims to be the absolute owner and possessor of premises bearing Nos. 10-1-820 (part) and 10-1-821 situated at A.C. Guards, Hyderabad filed this writ petition seeking a declaration that the action of the first respondent - Municipal Corporation of Hyderabad in not accepting the application of the petitioner for grant of building permission in respect of the said premises as arbitrary and illegal and for a consequential direction to consider the application of the petitioner without insisting on No Objection Certificate from the 2nd respondent.

I have heard the learned Counsel for the petitioner as well as the Sri Ganta Ramarao, the learned Standing Counsel appearing for the first respondent – Municipal Corporation of Hyderabad.

The learned Counsel for the petitioner contends that whenever an application is made seeking permission for construction of building, the same has to be considered as per the provisions of Sections 428 & 429 of the Hyderabad Municipal

Corporation Act, 1955 (for short, 'the Act') and there cannot be any insistance for production of No Objection Certificate. He also

states that the issue involved in this writ petition is squarely covered by the decision of the Division Bench of this Court in G.JAYAMALA AND ORS. v. THE COMMISSIONER, MUNICIPAL CORPORATION OF HYDERABAD wherein it was held that insistance of the Municipal Corporation to produce the No Objection Certificate from the Collector, Hyderabad with regard to title as a condition precedent for processing the application for sanction of the layout as arbitrary and illegal. The learned Counsel appearing for the first respondent Corporation does not dispute the said legal position.

In the circumstances, the Writ Petition is disposed of with a direction to the first respondent to receive the application of the petitioner without insisting on production of No Objection Certificate from the second respondent and to process the same and pass appropriate orders in accordance with law. No costs.

17th February, 2005.

gbs

To

1 The Commissioner, Municipal Corporation of Hyderabad, Tank Bund Road, Hyderabad.
2 The Joint Collector, Hyderabad Dist.

3. Two CCs to G.P. for Revenue, High Court of AP Bldgs, Hyderabad (OUT).

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